

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of |) |
| Norbert Heske, et al. |) Group: 3736 |
| Serial No.: 10/500,518 |) |
| Filed: March 1, 2005 |) |
| Title: BIOPSY DEVICE AND BIOPSY NEEDLE MODULE |) |
| THAT CAN BE INSERTED INTO THE BIOPSY DEVICE |) Examiner: E. Lloyd |

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Claims 57-100 are pending in the present patent application.

Responsive to the restriction requirement in the Office Action dated December 5, 2008, Applicants hereby elect, **with traverse**, the invention of Group B, claims 66-68 and 98-100, drawn to the relationships of various housing segments.

Traversal of Election Requirement

The Examiner asserts a unity of invention restriction based on PCT Rule 13.1. The Examiner has identified three groups of inventions, labeled Group A, Group B, and Group C. Common to each of Groups A, B, and C is independent claim 57. The Examiner, however, considers the subject matter of claim 57 to not include a technical feature that defines a contribution over the prior art in view of Dejter, Jr., et al. (U.S. Patent No. 4,989,614), and more particularly, with reference to Dejter, Jr., et al. Fig. 13. Applicants respectfully disagree.

As shown in Dejter, Jr., et al. Fig. 13, the device is intended to be held by two hands for use in a two-handed operation, since one hand is needed to grasp the pistol grip 84 and manipulate trigger 86 (col. 12, ll. 9-21), and a finger of the other hand is needed to guide the needle via finger

guide 13 (see also Figs. 1a-1f, 2 and 7; col. 8, ll. 56-66). Accordingly, the technical feature of being held and used by a single hand of a physician is a technical feature that defines a contribution over the prior art of Dejter, Jr., et al.

Should the Examiner take issue with the term “can” be held in a single hand of a physician, as recited in claim 57, then Applicants request that before the restriction is finalized Applicants be given an opportunity to clarify the intent of claim 57, which is a biopsy device that is operated in a single-handed operation.

Therefore, for at least the reasons set forth above, it is respectfully requested that the restriction requirement be withdrawn, and that the examination of the pending claims proceed in due course.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorize that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C.

Should any questions concerning the foregoing arise, the Examiner is invited to contact the undersigned at (317) 894-0801.

Respectfully submitted,
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Electronically Filed: January 5, 2009